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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,688

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Richard Paul Miller

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65885

7590

01/22/2009

MCNEES WALLACE & NURICK LLC

100 PINE ST.

P.O. BOX 1166

HARRISBURG, PA 17108-1166

EXAMINER

BUTLER, PATRICK NEAL

ART UNIT

PAPER NUMBER

1791

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/805,688

Applicant(s)

MILLER ET AL.

Examiner

Patrick Butler

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-11, 14-20, 30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 14-20, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-11, 14-16, 18-20, 30, and 31 rejected under 35 U.S.C. 102(b) as being anticipated by Ernest (US Patent No. 4,816,103).

With respect to Claims 1, 30, and 31, Ernest teaches a press with upper and lower mold platens 18 and 20, with each mold section having a resilient silicone rubber resistance heater 32 (an upper platen and a heated lower platen that are selectable movable toward and away from each other for conformally but nondeformingly receiving a vessel therebetween; wherein the heated lower platen heats a portion of the vessel to at least a predetermined temperature; wherein the heated lower platen heats a portion of the vessel to at least a predetermined temperature) (see col. 4, lines 1-16), for curving wood, composites, or veneers (an air handling unit vessel) (see col. 1, lines 5-13). The upper mold platen is an upper hinged mold platen assembly of upper corrugated mold platens 20a,b,c,d with hinges fastened on either side (wherein the upper platen comprises at least two movable portions that are hingedly connected; an upper platen comprising at least two movable portions; one of the at least two movable portions may be rotated independently of the remaining portions of the at least two movable portions) (see col. 5, lines 45-63). The upper hinged mold platen assembly

has individual motors, or retraction cylinders 6 and actuators 4, for each platen 3 (see abstract; col. 3, lines 33-59; and fig. 1) thus providing desired positioning (configured to apply a conformal pressure to the surfaces; insufficient to deform...while applying a reactive force). Since the press is capable of being used by filling the mold with a material to be pressed, it meets the use limitations of the claim (so that vessel surfaces in conformal contact with the upper platen and the lower platen remain substantially undeformed while the vessel is filled with a pressurized material).

With respect to Claims 2-4 and 8, Ernest teaches a press for curving wood, composites, or veneers (see col. 1, lines 5-13), which would enable the press to be used for the claimed use limitations of the press.

With respect to Claims 6, 7, and 9-11, Ernest teaches each mold section having a resilient silicone rubber resistance heater 32 (wherein the heated lower platen is heated by heated fluid; heated by heating elements) (see col. 4, lines 1-16).

With respect to Claims 14, the upper mold platen is an upper hinged mold platen assembly of upper corrugated mold platens 20a,b,c,d with hinges fastened on either side (wherein one of the at least two movable portions may be rotated independently of the remaining portions of the at least two movable portions) (see col. 5, lines 45-63).

With respect to Claims 15 and 16, Ernest teaches that the mold platens have aligned curves (where in graduated indicator having at least one graduated indication corresponding to a feature of the vessel is used to position the at least two movable portions; wherein the feature of the vessel is the length of the vessel) (see col. 4, lines 25-31).

With respect to Claims 18-20, Ernest teaches using retraction cylinders 6, piston rods 25, and double convoluted pneumatic actuators 4 to control the platens' position and necessarily their relative rotation to each other about their hinges (see further comprising at least one device associated with a hinged connection to selectively prevent rotational movement in a predetermined direction of one of the at least two movable portions; where the at least one device is a cam; activated by an activator) (see col. 3, lines 33-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ernest (US Patent No. 4,816,103) as applied to Claim 1 above, and further in view of Serafini (International Publication No. WO 02/095157 A1).

With respect to Claim 17, Ernest teaches a press as recited above but does not expressly teach that the press further comprises a plurality of rollers extending through the lower platen for receiving the vessel between the upper platen and the lower platen.

Serafini teaches incorporating rollers into the lower portion of a mold in order to convert to rolling friction the friction of moving the shaped material within the mold (see page 4, lines 4-22 and figs. 3 and 4). The rollers are within the generatrix of the curve, which would necessarily extend them through the lower platen.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Serafini's rollers in the mold of Ernest in order to minimize friction (see Serafini, page 4, lines 4-22).

Response to Arguments

Applicant's arguments filed 25 August 2008 have been fully considered but they are not persuasive.

Applicant argues with respect to the 35 USC § 102(b) rejections and 35 USC § 103(a) rejections. Applicant's arguments appear to be on the grounds that:

1) Ernest is direct to a method and apparatus for forming corrugated plywood composites. The claims, as amended, require holding a roof assembly without deforming it. Thus, these features are not taught by Ernest.

The Applicant's arguments are addressed as follows:

1) Applicant's arguments with respect to the newly claimed subjection matter of not deforming a roof assembly have been considered but are moot in view of the new ground(s) of rejection as applied above.

1) The apparatus claims recite the applicant's intended use of the claimed structure in not deforming a roof assembly. As such, if the structure taught in the prior art is equivalent to the claimed structure and the taught structure is capable of performing the applicant's intended use, the structure taught in the prior art would be readable on the claimed structure even if the prior art does not teach that the taught structure actually performs the applicant's intended use. The recitation of the intended use of the claimed invention must result in a structural difference between the claimed

invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As described above:

The upper hinged mold platen assembly has individual motors, or retraction cylinders 6 and actuators 4, for each platen 3 (see abstract; col. 3, lines 33-59; and fig. 1) thus providing desired positioning (configured to apply a conformal pressure to the surfaces; insufficient to deform...while applying a reactive force). Since the press is capable of being used by filling the mold with a material to be pressed, it meets the use limitations of the claim (so that vessel surfaces in conformal contact with the upper platen and the lower platen remain substantially undeformed while the vessel is filled with a pressurized material). Thus, as Ernest's apparatus is capable of performing the use, it meets the claim.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-8517. The examiner can normally be reached on Mon.-Thu. 7:30 a.m.-5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/P. B./
Examiner, Art Unit 1791

/Christina Johnson/
Supervisory Patent Examiner, Art Unit 1791